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Report on the activities of the Office of Internal Oversight Services

Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

Financing of the African Union-United Nations Hybrid Operation in Darfur

Report of the Office of Internal Oversight Services on the audit of the use of extraordinary measures for the African Union-United Nations Hybrid Operation in Darfur

Note by the Secretary-General

Summary

Pursuant to General Assembly resolution 62/232 A, the Office of Internal Oversight Services (OIOS) conducted an audit on the use of extraordinary measures exceptionally authorized by the Secretary-General for the African Union-United Nations Hybrid Operation in Darfur (UNAMID).

The present note provides comments and clarifications on the information contained in the audit report elaborated by OIOS for the consideration of the General Assembly (A/63/668). It is important to note that the major risk faced by the Secretariat in implementing the Security Council mandate for UNAMID was that failure to provide extensive facilities on the ground would have caused the mission to fail. The choice of a sole-source contract solution brought within it risks, but these were judged less onerous than the risk of failing to provide facilities.

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General comments

1. At the outset the Secretary-General would like to emphasize two important issues. First, extreme caution has been exercised in the authorization and use of flexibility measures in the application of administrative rules. Secondly, all activities implemented under the extraordinary measures in the African Union-United Nations Hybrid Operation in Darfur (UNAMID) were in compliance with United Nations regulations, rules and procedures and contributed to the better functioning of this operation.

2. It is also important to note that the major risk faced by the Secretariat in implementing the Security Council mandate for UNAMID was that failure to provide extensive facilities on the ground would cause the mission to fail. The choice of a sole-source contract solution brought with it risks, but these were judged less onerous than the risk of failing to provide facilities without which the Security Council mandate would remain unimplemented. The Organization chose to mitigate various risks related to the disruption in supply chain by building redundancies and planning for the "worst case scenarios", which were the underlying premise of the contract.

3. The estimated financial implications of deficiencies included in the annex of the Office of Internal Oversight Services (OIOS) report have not been documented and, in most cases, have been and are contested, as shown in the subsequent paragraphs of the present note.

Comments on the summary

4. In regards to the high level of financial and reputational risks that the decision to enter into a sole-source contract created, the Secretary-General would like to clarify that these risks must be weighed against the more obvious risks of not having fulfilled the Security Council's mandate in the timely deployment of a peacekeeping mission. Had the United Nations not been able to use the contractual services, the consequences could have been worse. The selected contractor had been operating in Darfur since 2004 following a competitive solicitation exercise carried out by a Member State, and it was considered to be the best solution among the various options available to the Organization. The Secretary-General also considers that the controls in place were adequate within established regulations and rules to ensure full compliance with the terms agreed upon in the contract.

5. Concerning the point raised that the Headquarters Committee on Contracts was pressured to expedite its recommendation, even though the process of negotiating the cost of the contract was still ongoing, the Secretary-General would like to clarify that an explanation was given to the Committee, as reflected in the minutes of the Committee, that prices could be further lowered by continuing the negotiations process for an additional week. These negotiations in fact resulted in material savings to the Organization amounting to US$ 41 million.

6. The OIOS report also claims that no effort was made by the Department of Field Support and the Procurement Division to negotiate a corresponding reduction in the overhead/administrative charges. In this respect, it should be noted that, as indicated to OIOS at the time of the audit, the Procurement Division planned to negotiate a reduction in the overhead and administrative charges. These negotiations

were completed in September and October 2008 and resulted in further material cost reductions in excess of $16 million.

7. In regards to the statement of OIOS that the initial draft letter of assist issued by the Department of Field Support was for a one-year period with option for a three-year extension, exceeding the authorized amount and extension period, as initially presented to the Headquarters Committee on Contracts, the Secretary-General wishes to clarify that this observation is based on drafts that were being discussed among the parties. In the end, the letter of assist was only issued for a one-year period, with an option for a one-year extension as authorized by the Committee.

8. The OIOS report also states that savings of more than $6 million per year could be realized if monthly rates were negotiated on the basis of UNAMID's working hours instead of a 12-hour working day and a 26-day month, as proposed in the draft letter of assist. In this respect, the Secretary-General would like to clarify the following: In start-up missions, it is not unusual for United Nations employees to typically undertake 12-hour working days and to work on weekends. Restricting or slowing down the amount of work of the consultants was not in the best interest of the Organization. Besides, the Secretary-General would like to point out that there are vast differences when undertaking a cost comparison of the United Nations work day and that of the proposal, as explained in detail in paragraphs 42 to 45 below.

I. Introduction (paras. 1-4)

9. The Secretary-General has no comments in regards to the introduction.

II. Comments on justification for the use of extraordinary measures (paras. 5-10)

10. Paragraph 8 of the OIOS report indicates that the Under-Secretary-General for Internal Oversight Services "expressed concerns", in a correspondence dated 23 November 2007 to the Secretary-General, "about allowing flexibility in the application of procedures". It should be noted that the use of the extraordinary measures was the subject of extensive discussions by members of the Fifth Committee during the review of the budget for UNAMID in November and December 2007. During those discussions, approximately 200 questions were raised and answered either verbally or in writing. About 50 of those questions related to the use of the extraordinary measures and to the sole-source contract. On 22 December 2007, the General Assembly approved a resolution for the financing of UNAMID, including a request for OIOS to audit the use of the extraordinary measures (resolution 62/232 A). It was therefore deemed appropriate to address the matter in a comprehensive manner. Furthermore, the Secretary-General would like to clarify that owing to the risks associated with the award of a contract on a sole-source basis under extraordinary measures, OIOS representatives were invited by the Procurement Division in two separate occasions (23 May and 15 June 2007) to provide OIOS advice on the risk that could be present and internal controls that should be considered in the procurement and administration of the contract. The OIOS representatives did not indicate in the course of those meetings that the sole-

source contract as signed could prove to be "damaging [to] the reputation of the United Nations", as OIOS states in paragraph 29 of the report.

III. Controls established to mitigate risks of loss, misuse and mismanagement of resources (paras. 11-12)

11. The Secretary General has no comments in regards to paragraphs 11 and 12.

IV. Comments on the effectiveness of the extraordinary measures (paras. 13-77)

A. Procurement (para. 13)

12. The Secretary-General has no comments in regards to paragraph 13.

1. Comments on inadequate planning of logistical requirements (paras. 14-20)

13. The Secretary-General would like to note that, despite all the challenges during the contract implementation, the contractor has provided the infrastructure for four super-camps, affording the mission the capability to accommodate more than 4,000 persons, both military and civilian. Without these camps, any new deployment in UNAMID would have been impossible.

14. In regards to the decision to enter into a sole-source contract, the Secretary-General considers that OIOS has not fully taken into account the precursor of events that led to the establishment of the sole-source contract and as a result has drawn inappropriate conclusions over the efficacy of the planning process. The genesis of the recommendation to pursue this modality of contract was the need to support the deployment of the heavy support package comprising 4,100 personnel in order to strengthen the African Union Mission in Sudan (AMIS). Although, the heavy support package had been anticipated for some time, it was only finally approved by a letter from the President of the Security Council on 17 April 2007. At that stage, it was anticipated that heavy support package units would start to deploy in about two months (by June 2007) and the Department of Field Support was under significant pressure to rapidly have in place appropriate support arrangements on the ground. Therefore, given the limited time available and the normal time required for a tender, award and mobilization of a contract of this magnitude, alternative methods to meet the operational requirements were judged to be necessary.

15. In regards to the notion that the Department of Field Support did not perform a cost-benefit analysis to justify the use of a multifunction logistics contract, the Secretary-General would like to note that in the absence of sufficiently qualified and available resources or the time to undertake logistic demands of the required magnitude, there was no viable option other than to seek resources under a multifunction service contract. Hence, it was considered that a cost-benefit analysis could not be conducted because there was no other available capacity for such a comparison to be carried out.

16. The Secretary-General would also like to note that the period in which the planning for the deployment and support of the heavy support package took place

was plagued by uncertainties and delays. The Government of the Sudan withheld approval of the provision of the heavy support package by the troop-contributing countries until July 2007, while some of the capabilities within the package were not provided by Member States. Hence, it was extremely difficult for the Department of Field Support to finalize a statement of requirements for heavy support package support. A draft statement of requirements was prepared by the Department by late April 2007. This was refined through discussions between the Department of Management, the Department of Field Support and the OIOS in order to identify and mitigate risks and through a field visit by the Departments of Field Support and Management to Darfur and was submitted in final form to the Procurement Division in mid-July 2007.

17. Given the prevailing uncertainties which surrounded this deployment, and the complexity of the requirement, the Secretary-General considers that the timescale is understandable and its preparation efforts are reasonable. The Secretary-General wishes to clarify that there was not sufficient information at hand in December 2006 to properly plan for and evaluate the cost-effectiveness of entering into a sole-source, multifunction logistics contract, nor does he consider that sufficient information existed in December 2006 to develop and issue a statement of work with sufficient detail that would enable the Procurement Division to commence a credible solicitation.

18. The contractor had been operating in Darfur since 2004. The company had constructed and was maintaining 34 camps for AMIS of the type required by UNAMID and therefore had personnel and assets on the ground and a well-functioning supply chain in Darfur suited to the logistic requirement of UNAMID. It was assessed that the contractor was the only company capable of mobilizing the necessary construction teams within 30 to 60 days, noting the expectations of the Security Council. Hence, the decision was taken to recommend a sole-source contract for support to the heavy support package. In reaching this decision it was assessed that the risk to the reputation of the Organization of failing to deploy the heavy support package units in a timely manner outweighed the risk of the sole-source approach as has, indeed, proved to be the case.

19. The deployment of the heavy support package was the second phase of a three-phase approach to strengthening peacekeeping in Darfur. Phase One, the light support package, comprised some equipment but was primarily made up of personnel to strengthen the management of the operation in Darfur. The heavy support package was designed to deliver critical enabling capacity to AMIS. The decision of the Security Council to establish UNAMID in late July 2007, before any heavy support package capability had deployed to Darfur, presented a further series of challenges to the Department of Peacekeeping Operations and the Department of Field Support, who were now required to undertake concurrently the following major tasks:

(a) Continue the generation and deployment of the heavy support package;

(b) Assume operational command authority over the light and heavy support packages by 31 December 2007;

(c) Assume authority from AMIS by 31 December 2007;

(d) Take over support of the already deployed 6,743 AMIS troops who were to become United Nations troops from 31 December 2007;

(e) Expand the peacekeeping mission to its full strength of 19,555 military, 3,772 police officers, 19 formed police units, each of 140 personnel, and an appropriate civilian component as rapidly as possible.

20. Based on the explanations provided in paragraphs 13-19 above, the Secretary-General's view is not that the Department of Field Support failed to adequately plan for the provision of the multifunction logistics services. As earlier stated, the Controller in his letter referred to above, requested that a concept be developed to respond to an emergency situation of this nature to prevent reoccurrence of exceptions to competitive bidding. The Controller's request to the Department of Field Support was to consider whether it could develop a "standing or standard resource requirement" which could be used as the basis for competitive bidding should the Organization be placed under similar time and information constraints for rapid deployments in the future.

2. Comments on delays in the preparation of a statement of work (paras. 21-23)

21. The Secretary-General has no comments with regards to paragraphs 21 through 23 other than those provided in the paragraphs above.

3. Comments on approval of the contract award to Pacific Architects and Engineers (para. 24)

22. The Secretary-General has no comments in regards to paragraph 24.

4. Comments on insufficient time for evaluation and review of the Pacific Architects and Engineers procurement case by the Headquarters Committee on Contracts (paras. 25-29)

23. The Secretary-General would like to reiterate that the reason for requesting an urgent consideration of the multifunction logistics case by the Headquarters Committee on Contracts was the fact that the then existing contract between the contractor and a Member State was due to expire the day after the presentation (31 August 2007). Therefore, had the contractor agreement with the United Nations not been confirmed, the contractor was at risk of losing its legal status in the Sudan and consequently would have had to demobilize. This course of action would have significantly increased the costs to the United Nations and lead time in mobilizing other construction capabilities in Darfur. It should be noted that the Headquarters Committee on Contracts was fully informed about the contract in detail and it was also explained to them that prices would be further reduced, following final negotiations. Indeed, as stated above, the additional week of negotiations resulted in material savings to the Organization of an additional $41 million. The Headquarters Committee on Contracts was duly informed of the final results of the negotiations.

24. Moreover, a review of the Headquarters Committee on Contracts case minutes showed the extensive examination of the issues raised by the Committee. The Committee flagged the exceptional nature of the case in providing the decision maker with two recommendations on how to proceed. As such, the Committee discharged its functions in providing its views on a difficult case which clearly raised significant operational issues for the Organization in terms of meeting the Security Council mandate.

25. In relation to the possibility that the vendor's selection without bidding, as permitted under the extraordinary measures, could attract negative publicity damaging the reputation of the United Nations, the Secretary-General would like to emphasize that, considering the risks associated with awarding a contract of this magnitude and complexity on a sole-source basis, the Department of Management requested the advice and guidance of OIOS. OIOS representatives were invited on two separate occasions (23 May and 15 June 2007), to seek the advice of OIOS on the risks that could be present and internal controls that should be considered in the procurement process and administration of the contract. The OIOS representatives did not indicate, during these meetings, that the contract could prove to be damaging to "the reputation of the United Nations", as it was later asserted in the report. It should also be recognized that a failure to implement the Security Council mandate owing to the non-provision of facilities would have resulted in even worse reputational damage as well as substantive damage to the Organization and its objectives.

5. Comments on inadequate bid evaluation (paras. 30-33)

26. The Secretary-General would like to note that extensive negotiations were carried out by a team comprised of members from the Department of Field Support, the Office of Legal Affairs and the Department of Management, whereby the original bid proposal of $790 million was eventually reduced by over half a billion dollars. While indeed some of the vendor assumptions appeared to be relatively high, the substantial price reduction was a result of an analysis of more than 13,000 line items which constituted the vendor proposal.

27. In regards to the absence of benchmarking, the Secretary-General would like to clarify that there were many examples of price comparisons demonstrated within the contract files. As stated above, there were more than 13,000 line items within the proposal and, while a comparison for all line items would have been more than challenging, the Procurement Division did use many means at its disposal to carry out benchmarking, such as:

(a) Existing systems contracts — despite the fact that the delivery terms for systems contracts are either delivered duty unpaid (DDU) Brindisi or free carrier Brindisi, the vendor proposal was on-site delivery. Furthermore, in many instances, the systems contracts did not have the capacity to satisfy the demand for the heavy support package contract;

(b) Data from a Member State and the African Union was used to provide a benchmark despite the fact that the Member State's specifications differed from United Nations standards;

(c) Other mission contracts;

(d) The labour laws of the Sudan.

28. The Secretary-General wishes to clarify that the Organization always reserves the right to utilize systems contracts within the terms of a heavy support package contract, but as stated above, the delivery capacity of systems contracts has to be taken into consideration, which in this case did not exist. Furthermore, there are always risks associated when ordering from a third party. These risks have to be balanced against the possibilities of not achieving the ultimate goals of the project owing to non-delivery of goods from a third-party supplier.

6. Comments on weakness in the management of task orders (paras. 34-41)

29. In the OIOS report, reference is made to administrative fees totalling $4.3 million for which the United Nations did not obtain value for the costs incurred. The Secretary-General would like to state that the administrative fees of $4.3 million have been recovered.

30. The OIOS report also refers to the administrative fees for the task orders raised for El Obeid for the period between 1 April and 14 July 2008. The cost for services in El Obeid at $313,416 have all been recovered either directly or through the process of negotiations.

31. In reference to the statement in the OIOS report relating to the procurement of equipment at prices higher than those in the existing systems contracts, resulting in additional costs of $7 million to the United Nations, the Secretary-General would like to clarify that the only disproportionate cost that has been identified is the amount of $3 million which refers to purchases of generators. It must be noted that during the time period in question, the existing supplier for the system contract suffered from force majeure circumstances related to severe natural conditions and, therefore, was unable to fulfil its contractual obligations. Hence the need to procure generators, as a mission-critical item, from elsewhere, on an exigency basis in line with the "worst case scenario" mentioned above.

32. It must also be added that in reference to the 500-kVA generators, it is correct to assume that if purchased through the systems contract, this cost would have been less, but this would have been a delivery duty unpaid Brindisi and the vendor proposal was for an on-site delivery. Additionally, the lead time for the systems contracts was protracted and any delay faced with regards to generators ordered from the systems contract would have had a detrimental effect on the overall deployment timelines mandated by the Security Council. Furthermore, there was a need to mitigate the risk element attached to ordering items from a third party and integrating into another contractor's operation. Hence, the solution chosen took into account, among others, the unforeseen events faced by the supplier, the prices and the most time-efficient delivery methods.

7. Comments on overhead and administrative charges not commensurate with the adjusted contract value (paras. 42-43)

33. The Secretary-General has no comments in regards to paragraphs 42 and 43.

8. Comments on charges for catering and management services not performed

34. The Secretary-General would like to note that at the time of signing the task orders for catering, UNAMID had in its possession various catering equipment. This catering equipment was to be used in the provision of catering services from 1 April 2008, but was in various states of disrepair. During the mobilization period, which started at the date on which task orders were issued, the vendor was required to assess and repair the equipment for use under the contract which commenced on 1 April 2008. The charging of fees for catering equipment maintenance was therefore justified. However, in accordance with the relevant change and task orders, an adjustment was made to the charges for management services and the maintenance of catering equipment, reducing the net amount payable by the United Nations for these services by $100,758. Much of this reduction was related to the

lack of mobilization, management and equipment operation and maintenance services delivered during January 2008.

35. Paragraph 46 of the OIOS report found that the contractor had not provided the services of cleaning, laundry, pest control, ground maintenance and garbage/refuse disposal services. However, task orders included charges of $475,926 for management services for six months from February 2008. The Secretary-General would like to clarify that in accordance with the terms of the contract, if the mission chose to use one of the range of services offered, the full management fee would be payable. As UNAMID chose to use the catering services, the full cost was incurred. However, as part of the overall package negotiated with the contractor on the management fees in September and October 2008, the Secretary-General would like to inform that this amount was included in the cost reductions of $16 million referred to in paragraph 6 above.

9. Comments on delays in establishing the contract management function (paras. 48-50)

36. In reference to the delays in having a fully operational contract management function established, the Secretary-General would like to state that the UNAMID budget was not approved by the General Assembly until 22 December 2007. While timely recruitment processes were undertaken by the mission, the recruitment effort was hampered in a number of ways: short-listed staff declining to be interviewed, selected staff declining appointment and appointed staff facing extreme delays in travelling to the mission. It was also expected that the letter of assist with a Member State for provision of contract management services would have been concluded in a timely manner and that the mission would have benefited from this support.

37. In light of the difficulty the Organization faced to attract, recruit and retain qualified staff, it is understandable that as of April 2008, the mission had not established a sufficiently staffed and technically qualified in-house capacity to manage the multifunction logistics contract. These outsourcing arrangements have now been finalized.

38. The Secretary-General would like also to clarify two major setbacks that influenced this delay: As noted by OIOS in paragraph 52 of the report, before the letter of assist was considered, the Procurement Division undertook two procurement exercises. Both exercises were ultimately unsuccessful — the first one owing to a lack of any technically compliant proposals, the second owing to a conflict of interest with the sole technically compliant proposal.

39. It should also be noted that it was not appropriate to label the letter of assist process as "non-competitive bidding" as if it were a competitive process. All letters of assist are by their very nature non-competitive arrangements between the parties to the arrangements. Yet it is prudent to note that the Procurement Division did conduct a cost comparison of the financial proposal of the Government with which the letter of assist was established against the commercial prices obtained from the failed commercial exercises.

40. Furthermore, the letter of assist had yet to be executed because of protracted negotiations with the involved Member State on complex issues. Among the difficult negotiations, for example, was the objection of the Member State initially to indemnify the Organization for acts, omissions or negligence on its part. The

Member State relented on this issue, but only after its Parliament approved entering into the letter of assist on a provisional basis. The United Nations acceptable levels of insurance coverage by the Member State were also problematic. Almost all of the issues ultimately required the advice and approval of the Controller, the Office of Legal Affairs and the Department of Management. This inevitably extended the time of the negotiations.

10. Comment on the issuance of a letter of assist exceeding the authorized amount and contract renewal period (paras. 51-54)

41. The Secretary-General would like to clarify that the letter of assist was issued for one year with an option to extend up to one year as approved by the Headquarters Committee on Contracts. The period mentioned in the OIOS report was both a consideration and a preference for both the mission and the Member State involved, and it was the basis for the draft letter of assist that was prepared. This however, was short-lived and the letter of assist for one year with a one-year extension option was pursued. It must be mentioned that OIOS based its observations on the draft.

11. Comments on the excessive cost of contract management services (paras. 55-57)

42. In paragraphs 55-57, the OIOS report questions the letter of assist with respect to the costs used which were based on an hourly rate for a 12-hour working day on a 26-day month for each consultant. This is contrasted with the United Nations where the working hours are eight hours per day, on a 22-day month basis. The report continues to provide estimates of potential savings that would have been achieved had the contract been based on United Nations working hours. In this respect, the Secretary-General would like to state that as the primary objective of the Organization was to enable UNAMID to implement its mandate as soon as possible, restricting or slowing down the amount of work of the consultants would have represented savings that would not have been in the best interest of the Organization. The Secretary-General strongly believes that reducing the quantum of the consultants' work to the suggested levels is not in accordance with normally accepted commercial practice, nor would it have been within the operational interest of the Organization.

43. More specifically, the Secretary-General would like to note that there are vast differences when undertaking a cost comparison of the United Nations work day/month and that of the letter of assist personnel. The Director/Chief of Mission Support usually defines the number of working hours and work days in a month. In a start-up mission, it is not unusual for United Nations employees to typically undertake 12-hour days and be required to work on weekends. The United Nations, however, only recognizes 21.75 days (and 7.5 hours per day) of productivity for compensation to its staff. The letter of assist proposal is reflective of the fact that its staff will work 6 days out of every 7 days up to 12 hours per day. The characterization of what constitutes a "normal" work day in the context of generating savings is misaligned with the objective of the mission to build capacity in the **shortest period of time**.

44. Furthermore, it must be considered, that the consultant's work month is based on the provision of "consultant days" and not "consultants". The party retained under the letter of assist is obliged to provide 26 days of consultancy productivity in

every month (for each position) irrespective of sick leave, annual leave, travel days or official holidays of its individual consultants. In contrast, the United Nations continues to pay its staff during these "down" periods, and is not required to provide alternate coverage during these absences. Accordingly, the comparison made is an "apples to oranges" one and the savings alleged are not substantive.

45. In addition, it should be noted that cost-comparisons were undertaken between the selected proposal and the proposals the United Nations had received for Consultant Contract Management services from the competitive bidding exercise. It was found that the prices included in both proposals were comparable. Based on the cost-comparison, the Secretariat managed to reduce the costs associated with certain types of personnel resulting in savings of €234,705. Perhaps more significantly, on average, the core personnel costs of the party whose services were retained were over 18 per cent less than those of the only comparable commercial bid received in two bidding exercises that were carried out during the process of contracting these services.

46. Finally, the Secretary-General would like to state that as of December 2008, the finalized letter of assist had been signed.

12. Comments on the extension of existing systems contracts (para. 58)

47. The Secretary-General has no comments in regards to paragraph 58.

13. Comments on the lack of in-house expertise to arrange multifunction service contracts (para. 59)

48. The Secretary-General would like to note that the United Nations generally conducts procurement through competitive bidding for individual requirements as they arise. The Organization does not have expertise for such detailed cost analysis involving military assets, as it usually evaluates prices based on market responses given as offers in response to specific requirements set forth in tender documents. For UNAMID, it was deemed necessary to utilize the expertise of the Maintenance and Supply Agency of the North Atlantic Treaty Organization to conduct such detailed cost analysis to protect the financial interest of the Organization.

49. Nevertheless, the Department of Management will seek additional resources from the General Assembly to build its own capacity to manage procurement of multifunction logistics service.

14. Comments on procurement measures not used (para. 60)

50. The Secretary-General has no comments in regards to paragraph 60.

B. Human resources management (para. 61)

51. The Secretary-General shares the view of OIOS regarding the need for the United Nations to reassess its strategy in attracting both external and internal candidates to take up peacekeeping positions in the field and reiterates that every effort is being made to this effect. The Secretariat has already taken a number of initiatives to better manage the recruitment and staffing process. The Secretary-General's proposals for human resources management reform set out in his report entitled "Investing in people" (A/61/255 and Add.1 and Corr.1) sought to address

inadequacies in the conditions of service of staff serving in the field. At the conclusion of the main part of its sixty-third session, the General Assembly took a number of decisions on the Secretary-General's human resources reform proposals relating to the streamlining of contractual arrangements and harmonization of conditions of service of staff in the field which will impact on staff in peacekeeping operations and special political missions. As reflected in resolution 63/250, the General Assembly approved the new contractual arrangements, comprising three types of appointments (temporary, fixed-term and continuing) under one set of staff rules, effective 1 July 2009. While full harmonization with the United Nations system agencies, funds and programmes has not yet been achieved, the conditions of service of mission staff have been aligned with the common system benefits of the Secretariat. The General Assembly's decisions represent recognition of staff in the field as part of the regular Secretariat, with the same common system conditions of service and contractual arrangements. In future sessions, the General Assembly may revisit those proposals of the Secretary-General which were not approved. The Secretary-General maintains that the adoption of these proposals is essential to the Organization's strategy in attracting both external and internal candidates.

52. One of the tools for addressing the timely filling of vacancies is the human resources action plan that has been introduced to all peacekeeping missions effective 1 July 2008. The human resources action plan is a shared commitment by the Under-Secretary-General for Peacekeeping Operations and the Special Representative of the Secretary-General and Head of Mission to recruit and retain high-quality civilian staff for the field. Realistic targets to reduce timelines in the selection process, decrease the high vacancy and turnover rates and ensure proper recording of recruitment timelines have been established. The Department of Field Support has committed itself to providing missions with the necessary support to achieve these targets. To facilitate the implementation of the action plans, missions have been granted the authority and responsibility to implement the automated selection process (a system which prior to the implementation of the human resources action plan was limited to Headquarters) at the mission level through the automated vacancy management module, which will enable them to record their actions in the selection process in a timely manner. Missions have also been delegated authority and responsibility for staffing tables and post management to facilitate proper workforce and succession planning. A vacancy management module has been introduced in the Nucleus system to record local staff recruitment and facilitate the timely selection by field missions and to monitor timelines for the selection of locally recruited staff members. The implementation of the human resources action plan is expected to decrease vacancy and turnover rates, thereby contributing to retention and development of field staff through career development and succession planning and to prepare staff members for future development through training. This will be based on identifying and developing a pool of talented staff to ensure leadership continuity for all key positions in the missions.

53. Succession planning is linked with forecasting the critical staffing needs for all peace operations as well as assigning staff so that they are in the right position at the right time and can actively engage in the fulfilment of the missions' mandates. In consultation with the Department of Peacekeeping Operations Integrated Training Service and the Office of Human Resources Management Staff Development Service, the Department of Field Support will be identifying all staff development activities and professional training available, inclusive of certifications that they

would require to strengthen the ties between succession planning, performance management and career mobility.

54. The Department of Field Support continues its outreach initiatives in order to attract qualified candidates for peace operations through a variety of conferences and job fairs, as well as posted advertisements on targeted websites. Furthermore, the Department regularly circulates lists of critical vacancies to approximately 40 organizations worldwide, which help in identifying candidates for hard-to-fill positions or positions requiring specific skills. Positive outcomes have already been achieved as a result of this activity. In the first quarter of 2008, the Recruitment, Outreach and Career Development Section institutionalized its outreach functions by creating a structured full-time outreach team within its Recruitment and Outreach Unit.

1. Comments on the limited effect of extraordinary measures on the timeliness of staff deployment (paras. 62-65)

55. The Secretary-General would like to state that some of the statistics used to arrive at these conclusions are at variance with those of the Secretariat. The OIOS report stated that as of 31 March 2008, 13 of the 33 key administrative positions at the P-5 level or higher and 23 of the 39 key substantive positions had not been filled. The weekly update from the UNAMID recruitment tiger team dated 27 March 2008 indicated that the mission support component had 33 available posts and 20 staff members (61 per cent) were on board. The substantive offices had 39 available posts and 15 (38 per cent) were encumbered. Therefore, out of 72 key positions, a total of 35 (49 per cent) had been filled as of 31 March 2008. As of 12 November 2008, 50 (69 per cent) critical posts at the P-5 level or higher are encumbered, 26 from the support component and 24 from the substantive offices.

56. It should be noted that the mission support component currently has 100 per cent incumbency for the D-1 level and above, including the temporary duty assignment for the position of Principal Administrative Officer in Khartoum. The substantive component's incumbency rate for the D-1 and above level is 67 per cent. The recruitment tiger team is working closely with the recently assigned Chief of Staff to expedite the recruitment in the substantive component with a focus on filling vacant P-5-level positions.

57. In reference to the use of the extraordinary measure related to the temporary duty assignment in UNAMID, the Secretary-General would like to clarify that the Department of Field Support consulted with UNAMID and concluded that it was in the mission's best interest to continue the extraordinary measure of placing staff members on temporary duty assignment beyond 90 days. As a control measure, the Department required UNAMID to specify the durations of the temporary duty assignment, not to exceed 12 months. Therefore, the Department and the mission continued to exercise the extraordinary measure of allowing civilian personnel to deploy on temporary duty assignment beyond 90 days after 31 March 2008.

58. Concerning the issue of hiring replacements for the releasing missions, it should be noted that given that the duration of the temporary duty assignment was not specified at the time of deployment, such a measure would have been impracticable. It is understood that temporary duty assignment may be extended beyond 90 days; however, it is not automatic that such extensions must always be for one year. In this connection, experience has shown that attempts to fill vacancies

for a six-month period are extremely difficult, as very few candidates are willing to deploy to a field mission knowing that their appointment would expire at the end of six months.

2. Comments on limited experience of staff on temporary duty (paras. 66-68)

59. Paragraph 66 of the OIOS report stated that "the Department of Field Support did not set criteria on experience and expertise required for staff selected for temporary duty". The Secretary-General states that criteria had been established on experience and expertise required for staff selected on temporary duty assignment, in the Department's correspondence, dated 28 August 2008, addressed to all missions, to ensure that temporary duty assignments were being utilized in a uniform and consistent manner. This correspondence clearly articulated the purpose, clarified procedures to be followed and the control and reporting mechanisms ensuring that temporary duty assignments were utilized to meet their stated purpose. The purpose of the temporary duty assignment is to provide the receiving mission with highly experienced and qualified staff with unique expertise to meet urgent support requirements not only at the start-up stage, but also during expansion, liquidation or other limited periods. Staff deployed on temporary duty assignment must be able to "hit the ground running" and be immediately and positively productive in the receiving mission with no advanced notice or training.

3. Comments on the delayed reference checks of personnel absorbed from the African Union Mission in Sudan (para. 69)

60. The Secretary-General would like to reiterate that although reference checks were expeditiously initiated, UNAMID experienced difficulty in getting timely responses from employers and educational establishments. Therefore, in order to provide much-needed staff support, UNAMID decided to proceed with the completion of recruitment, while continuing to conduct reference checks. The mission forwarded a list of former AMIS staff for whom no reference check had been conducted to the Reference Check Unit of the United Nations Logistics Base in Brindisi with a view to prioritizing these reference checks.

4. Comments on accommodation-provided mission subsistence allowance and new mission subsistence allowance rate for Darfur (paras. 70-71)

61. The Secretary-General has no comments on paragraphs 70 and 71.

5. Comments on additional travel days for occasional recuperation breaks (para. 72)

62. At the conclusion of the main part of its sixty-third session, the General Assembly also approved the replacement of the occasional recuperation break with a rest and recuperation scheme that would include travel time appropriate to the location but not involve any payment of travel expenses, effective 1 January 2009. All field missions have been informed accordingly, and the administrative instruction on occasional recuperation break (ST/AI/2000/21) is being revised to reflect the changes to the rest and recuperation scheme.

6. Comments on inadequate staffing of the tiger team (paras. 73-74)

63. As regards the statements in the OIOS report that the Department of Field Support introduced the use of ad hoc "tiger teams" to augment the capacity of missions in recruiting international staff and that the number of tiger team staff responsible for recruiting international staff had been constantly reduced in UNAMID, in circumstances in which there was a continued need to augment the Operation's recruitment efforts until the vacancy rate decreased to an acceptable level, the Secretary-General would like to inform that in an effort to further support the tiger team in meeting the recruitment targets in line with the approved budget, the Department of Field Support temporarily deployed seven additional human resources personnel to UNAMID in June 2008. Currently, the recruitment tiger team has the strength of 19 members, of which 10 are in the International Recruitment Cell and 9 in the National Cell. One additional Human Resources Officer at the P-3 level is in the process of being deployed to Darfur to provide long-term assistance to the recruitment tiger team.

C. Extraordinary measures for other areas (paras. 75-77)

64. The Secretary-General has no comments on paragraphs 75 to 77.

Comments on the recommendations

65. *Recommendation 1 (para. 78)*: In its recommendation 1, OIOS stated: **The Secretary-General should exercise caution when authorizing flexibility measures in the application of administrative rules by ensuring that sufficient governance mechanisms are in place to properly identify and mitigate financial and reputation risks to the United Nations.**

66. The Secretary-General would like to emphasize that caution is always exercised when authorizing flexibility measures in the application of administrative rules. **Thus, it is unclear what action OIOS is recommending to be implemented by the Secretary-General.**

67. *Recommendation 2 (para. 80)*: In its recommendation 2, OIOS stated: **The Department of Management should ensure that, when flexibility measures in the application of administrative rules are exceptionally introduced to expedite the deployment of new missions: (a) a formal risk assessment is performed to analyse the circumstances that warrant the use of extraordinary measures and to identify the specific administrative measures actually needed to address such circumstances; (b) clear guidelines are communicated to all concerned offices and monitoring mechanisms are established so that risks associated with the use of extraordinary measures are properly identified and monitored; and (c) measurable expected benefits are clearly defined and communicated to all concerned offices to facilitate the evaluation of whether targets set for the application of extraordinary measures are met.**

68. The Secretary-General accepts recommendation 2 (a) but notes that a formal risk-assessment mechanism will only be possible once the enterprise risk management system is fully implemented. However, as the Organization seeks to

implement an enterprise risk management system, we will be conducting more thorough risk assessments of projects and proposals of this magnitude.

69. The Secretary-General, however, does not accept recommendations 2 (b) and (c) and notes that a thorough review of the proposed extraordinary measures was performed prior to a recommendation for their approval. The risk analysis as developed by OIOS is seen as a continuous exercise/process, for which the Procurement Division and other stakeholders are engaged, on a regular basis, for any significant acquisition projects driven by high costs or complexity or an abbreviated timeline. In addition, the source selection plan developed for any acquisition project and described in the Procurement Manual is a vehicle to address business risk and mitigation measures which may adversely affect the project and the organizational mandate. Furthermore, of the 18 exceptional measures approved by the Secretary-General, only 7 applied to procurement and of those, only 2 were used: the Procurement Division only extended one system contract to meet the mission requirements at "start up". The decision to enter into a sole-source contract has been documented in paragraphs 13 and 14 above.

70. *Recommendation 3 (para. 82)*: In its recommendation 3, OIOS stated: **The Department of Field Support, in coordination with the Department of Management, should address accountability for the failure to adequately plan for the provision of the UNAMID multifunction logistics services and the decision to enter into a sole-source contract with Pacific Architects and Engineers.**

71. The Secretary-General does not accept this recommendation. Planning for the provision of the services was undertaken by the Department of Field Support, which properly planned and evaluated the decision to enter into a complex multifunction service contract. The decision to enter into a sole-source contract was processed according to established procedures and was extensively consulted within the Secretariat. The judgement that the granting of a sole-source contract was in the best interest of the Organization falls within the authority of the Secretariat and it is not the role of an internal audit service to substitute its business judgement for that of an auditee.

72. *Recommendation 4 (para. 84)*: In its recommendation 4, OIOS stated: **The Department of Field Support should properly plan and evaluate any decision to enter into complex multifunction service contracts by conducting a comprehensive cost-benefit analysis to ensure that the United Nations obtains the best value for money when entering into such contracts.**

73. The Secretary-General does not accept this recommendation. Please refer to comments stated in paragraphs 16 and 17 above. In circumstances where the availability of alternative options is non-existent and lead times are short, the performance of a comprehensive cost-benefit analysis is neither practicable nor valuable.

74. *Recommendation 5 (para. 86)*: In its recommendation 5, OIOS stated: **The Department of Management should address accountability for the weaknesses in the procurement of the multifunction logistics services and the administration of the Pacific Architects and Engineers contract, which have resulted in substantial actual and potential losses.**

75. The Secretary-General **does not accept the recommendation** and wishes to reiterate that the Procurement Division has: (a) reduced significantly the overall cost of the contract through negotiations (refer to responses to recommendation 7 below); (b) conducted benchmarking to the extent possible for key elements of the contract; (c) reviewed 13,000 line items of the contract proposal to ensure reasonableness of prices; and (d) requested guidance and advice from OIOS on two different occasions regarding the risks involved in this contractual agreement and none was provided. Procurement of the contract has enabled the mission to meet needs arising from the Security Council mandate to deploy in the mission area.

76. *Recommendation 6 (para. 88)*: In its recommendation 6, OIOS stated: **The Department of Management should make every effort to recover the excessive charges presented by Pacific Architects and Engineers for payment and avoid losses in the future.**

77. The Department of Management has already fully addressed the issue of any excess charges and notes that the Procurement Division has: (a) reduced the overall proposal by over half a billion dollars; (b) recovered excess charges from the contractor in the form of $16 million reduction in administrative fees; (c) removed the contractor's management reserve on all subcontracted services; and (d) reduced the contractor's profit.

78. *Recommendation 7 (para. 90)*: In its recommendation 7, OIOS stated: **The Department of Management should develop in-house expertise on arranging multifunction logistics services to ensure that the procurement of such services in the future is handled effectively.**

79. The Secretary-General accepts the recommendation to increase its capacity for procurement of multifunctional logistics services and will seek additional resources from the General Assembly. Notwithstanding, it must be emphasized that the extraordinary measures are in full compliance with the Financial Regulations and Rules of the United Nations and OIOS did not identify nor report any specific breach of the Financial Regulations or the Rules.

80. *Recommendation 8 (para. 92)*: In its recommendation 8, OIOS stated: **The Department of Field Support should ensure that UNAMID's in-house contract management capacity is built within a reasonable time frame in order to develop the expertise of the United Nations on the management of complex, multifunction logistics contracts.**

81. The Secretary-General accepts the recommendation, stating that as of 31 October 2008, the Operation's in-house contract management capacity had increased to 16 staff. Please refer to comments in paragraph 36 of the present note.

82. *Recommendation 9 (para. 94)*: In its recommendation 9, OIOS stated: **The Department of Management should amend the draft letter of assist with the Government of Spain for the provision of contract management services in UNAMID to conform to the normal UNAMID working hours and achieve substantial savings.**

83. The Secretary-General does not accept the recommendation. Please refer to paragraphs 42-45 of the present note.

84. *Recommendation 10 (para. 96)*: In its recommendation 10, OIOS stated: **The Department of Field Support should define the criteria for required experience**

to guide the selection of qualified personnel for temporary duty assignment and timelines within which to deploy them.

85. The Secretary-General has implemented the recommendation. The Department of Field Support has circulated a facsimile dated 28 August 2008 to all missions on the purpose, procedures and control mechanisms for temporary duty assignment. It should be noted that in paragraph 14 of resolution 63/250, the General Assembly requested the Secretary-General to discontinue the practice of assigning staff from Headquarters to missions on a travel status for a period of more than three months.

86. *Recommendation 11 (para. 98)*: In its recommendation 11, OIOS stated: **The Department of Field Support should ensure that reference checks are performed and completed on a priority basis for all AMIS staff absorbed by UNAMID.**

87. The Secretary-General accepts the recommendation. Please refer to the comments in paragraph 60 of the present note.

88. *Recommendation 12 (para. 100)*: In its recommendation 12, OIOS stated: **The Department of Field Support should ensure that the tiger team established to facilitate the recruitment of staff for UNAMID is strengthened so that efforts to fill vacancies in the mission are sustained until such time as the staffing has reached an acceptable level.**

89. The Secretary-General accepts the recommendation (refer to para. 63 of the present note). Furthermore, the Secretary-General considers that the significant increase in the number of tiger team members will expedite the urgent requirement to fill vacant positions and will strengthen the Operation's recruitment efforts.

Comments on the annex

90. As regards to the annex to the OIOS report, which summarizes the estimated financial implications of deficiencies in the sole-source contract in the amount of $12,337,508, the Secretary-General would like to state the following:

(a) In relation to the figures relative to the item "Excessive equipment costs" for $7 million, only $3 million can be identified in the report and they refer to purchases of generators. It must be noted that during the time period in question, the existing systems contract supplier suffered from force majeure circumstances related to severe natural conditions and, therefore, was unable to fulfil its contractual obligations. Hence the need to procure generators, as a mission-critical item, from elsewhere on an exigency basis in line with the "worst case scenario" referred to in the previous paragraphs;

(b) In relation to the "Administrative fees charged to UNAMID when there was no actual construction work" for $4.3 million; the "Charges for catering ($248,166) and management ($475,926) services not performed", totalling $724,092; and the costs for "Task orders services for El Obeid that were not needed" at $313,416, all of them, with the exception of charges for catering of $248,166, which was reduced by $100,758, have been recovered either directly or through the process of negotiation;

(c) See the table below for a summary of the financial implications.

Table
Summary of estimated financial implications of deficiencies noted

Description	*Amount per OIOS report (United States dollars)*	*Per Secretariat*	*Paragraph No*
Pacific Architects and Engineers			
Excessive equipment costs	7 000 000	[a]	31
Administrative fees charged to UNAMID when there was no actual construction work	4 300 000	—	29
Charges for catering ($248,166) and management ($475,926) services not performed	724 092	147 408	34, 35
Task orders for services for El Obeid that were not needed	313 416	—	30
Subtotal	**12 337 508**		
Ingeniería de Sistemas para la Defensa de España			
Inflated contract management fees	6 200 000	[b]	8
Subtotal	**6 200 000**		
Total	**18 537 508**		

[a] The Procurement Division has been able to identify costs in excess of $3 million which have been justified as per paragraph 31.
[b] This figure has been contested owing to a different interpretation regarding the nature of the contract by OIOS and the Department of Field Support.